

ESTTA Tracking number: **ESTTA486636**Filing date: **08/01/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Softronics Ltd.		
Entity	Corporation	Citizenship	Iowa
Address	1080 East Post Rd Marion, IA 52302 UNITED STATES		

Attorney information	Robert W. Hoke Nyemaster Goode, P.C. 625 1st Street SE Suite 400 Cedar Rapids, IA 52401 UNITED STATES ptocr@nyemaster.com Phone:3192867000
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Registration Subject to Cancellation

Registration No	3502163	Registration date	09/16/2008
Registrant	NewSoft Technology Corporation 7F 36 Rueihu Street, Neihu Taipei, 11494 TAIWAN		

Goods/Services Subject to Cancellation


Class 009. First Use: 2006/09/06 First Use In Commerce: 2006/09/06 All goods and services in the class are cancelled, namely: Computer hardware and software for use in document imaging, digital image capturing and processing, information capturing and retrieval, audio and video signal retrieving, processing, playing and recording, wireless audio and video broadcasting; and compact discs pre-recorded with computer programs for the above-mentioned applications, as well as compact discs pre-recorded with computer programs for obtaining access to a global computer information network, and communication thereon, namely, electronic mail software, and multimedia and office groupware applications, namely, computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures and for data synchronization and importation
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85538575	Application Date	02/09/2012
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	SOFTRONICS LTD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1999/10/31 First Use In Commerce: 1999/10/31 High frequency radio circuits; high frequency equipment, namely, receivers, transmitters, transceivers, modems, synthesizers, amplifiers, and distribution systems; high speed digital circuits; high speed digital equipment, namely, computer controllers and processors</p> <p>Class 040. First use: First Use: 2004/04/30 First Use In Commerce: 2004/04/30 Contract manufacturing in the field of custom electronic equipment and systems tailored to specific requirements</p> <p>Class 042. First use: First Use: 2004/04/30 First Use In Commerce: 2004/04/30 Consulting in the field of engineering</p>		
Attachments	85538575#TMSN.jpeg (1 page)(bytes) Petition for Cancellation - Initial Refusal 20120801.PDF (6 pages)(1534034 bytes)		

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert W. Hoke/
Name	Robert W. Hoke
Date	08/01/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SOFTRONICS LTD.,)	
)	
)	
Petitioner,)	
)	Cancellation No.: _____
v.)	
)	Reg. No.: 3,502,163
NewSoft Technology Corporation)	
)	Mark: SOFTRONIX
Registrant.)	
)	Registered: September 16, 2008

PETITION FOR CANCELLATION

SOFTRONICS LTD. (the “**Petitioner**”) believes it is being damaged by the registration in International Class 009 of the mark “SOFTRONIX” shown in Registration No. 3,502,163 (the “**Registration**”), issued September 16, 2008 to NewSoft Technology Corporation (the “**Registrant**”). As a result, Petitioner hereby requests the Registration be cancelled.

Petitioner is an Iowa corporation having its headquarters and its principal place of business at 1080 East Post Rd, Marion, Iowa 52302.

Registrant, upon information and belief, is a Taiwan corporation having a correspondence address of 7F, No. 36, Rueihu Street, Neihu District, Taipei City, Taiwan 11494.

Petitioner has obtained the necessary extensions of time to file this Petition of Cancellation and such Petition is timely made.

As grounds for cancellation, it is alleged as follows:

1. Petitioner has adopted and used the mark SOFTRONICS LTD (the **“Petitioner’s Mark”**) in connection with:

IC 009: High frequency radio circuits; high frequency equipment, namely, receivers, transmitters, transceivers, modems, synthesizers, amplifiers, and distribution systems; high speed digital circuits; high speed digital equipment, namely, computer controllers and processors. FIRST USE: 19991031. FIRST USE IN COMMERCE: 19991031.

IC 040: Contract manufacturing in the field of custom electronic equipment and systems tailored to specific requirements. FIRST USE: 20040430. FIRST USE IN COMMERCE: 20040430.

IC 042: Consulting in the field of engineering. FIRST USE: 20040430. FIRST USE IN COMMERCE: 20040430.

2. On February 9, 2012, Petitioner filed U.S. Trademark Application No. 85/538,575 for the Petitioner’s Mark for the goods and services listed above (the **“Application”**);

3. On May 24, 2012, the assigned trademark examining attorney refused registration of the mark of the Application having determined there to be a likelihood of confusion with the mark in the Registration.

4. The Registration recites goods as follows:

IC 009: Computer hardware and software for use in document imaging, digital image capturing and processing, information capturing and retrieval, audio and video signal retrieving, processing, playing and recording, wireless audio and video broadcasting; and compact discs pre-recorded with computer programs for the above-mentioned applications, as well as compact discs pre-recorded with computer programs for obtaining access to a global computer information network, and communication thereon, namely, electronic mail software, and multimedia and office groupware applications, namely, computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures and for data synchronization and importation. FIRST USE: 20060906. FIRST USE IN COMMERCE: 20060906

5. As further detailed below, Petitioner has for several years, and prior to any date for first use upon which Registrant can rely, adopted and continuously used the Petitioner's Mark in connection with its goods and services set forth in paragraph 1.

6. Since its initial use of the Petitioner's Mark noted in paragraph 1 above, Petitioner has made a substantial investment in advertising and promoting its SOFTRONICS LTD goods and services. Petitioner has used, advertised, promoted and offered Petitioner's goods and services with the result that Petitioner's customers have come to know and recognize Petitioner's Mark and associate the mark with Petitioner and the goods and services sold by Petitioner. Petitioner has built goodwill in connection with its goods and services under its mark.

7. In the view of Petitioner's use of the Petitioner's Mark prior to any use of the mark of the Registration by Registrant, and prior to the filing by Registrant of its application resulting in the Registration, there is no issue of priority concerning Petitioner's adoption and use of Petitioner's Mark noted in paragraph 1 above prior to any adoption and use of the mark of the Registration.

8. Because the trademark examining attorney has determined the mark of the Registration and Petitioner's Mark are confusingly similar, the continued existence of the Registration is damaging to Petitioner under the provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. §1052(d), pursuant to the allegations stated above. A hypothetical pleading may consist of assertions that if, as the trademark examining attorney (or the defendant) contends, plaintiff's mark so resembles defendant's mark as to be likely, when applied to the goods and/or services of the plaintiff, to cause

confusion, then plaintiff will be damaged by the registration of the defendant's mark.

See TBMP § 309.02(c), Note 50.

WHEREFORE, Petitioner requests that the Registration be cancelled.

The Petitioner appoints Robert W. Hoke, Ryan Carter, Sarah J. Gayer, Glenn Johnson, and Kevin H. Collins of the firm of Nyemaster Goode, P.C. as its attorneys to prosecute this cancellation and to transact all business in the Patent and Trademark Office connected therewith.


Please direct all correspondence to the attention of:

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Respectfully submitted,

SOFTRONICS LTD.

Date: Aug 1, 2012

By 

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Neihu District, Taipei City
Taiwan 11494

JOHNSON YANG
NewSoft America, Inc.
500 Yosemite Drive, Suite 100
Milpitas CA 94035

ELECTRONIC MAILING CERTIFICATE

I hereby certify that the PETITION FOR CANCELLATION is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (ESTTA) on this 15th day of August, 2012.



Robert W. Hoke

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing PETITION FOR CANCELLATION to be deposited with the United States Postal Service with sufficient postage as first-class mail this 15th day of August, 2012 in an envelope addressed to the following attorney for the Registrant and to the correspondence address of the current owner of record of the registration:

JOHN E. OTTAVIANI
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